SLAVERY IN THE TERRITORIES.

THE HOUSE OF REPRESENTATIVES. MAY 16 AND 17.

The House being in Committee of the Whole on the state be Union, and having under consideration the bill making repriations for the payment of navy pensions for the year ing June 30, 1849—

Ir. BAYLY rose and addressed the House in an elaborate pparently well prepared speech, on the subject of slavery a Territories, &c., to which justice could not be done in adensed report, such as our columns would at present

Mr. DICKINSON said that he proposed to express his view he question brought into this debate by the gentleman from ginis, (Mr. Barry)—views which he should have expressed the Oregon Territorial bill on a future occasion, and hence was only anticipating their expression in point of time by

a few weeks.

I providing a Government for the Oregon Territory we ald adopt such a one as we are satisfied is constitutional, such as will be applicable to all future acquired Terri-

That we shall have Territories hereafter to provide govern its for is beyond all manner of doubt, and the question how Congress has the constitutional right, and how far it would and proper to exercise this power of legislation over ies, may as well be settled and disposed of at this time

Territories, may as well be settled and disposed of at this time as at any other.

Had the principles of our Territorial Governments been settled to the Satisfaction of the public, and had there been no conflict of opinion as to the propriety and constitutionality of certain provisions proposed to be introduced, and which are deemed by a respectable portion of the community to be of paramount importance to the future welfare of these Territories, I would have voted upon this question in silence, and would not have troubled the committee with any remarks upon the subject. But I am aware that a difference of opinion does exist in the different sections of the Union in regard to the disposition of slavery in the Territories, and I feel disposed to examine this matter candidly, and be governed in my future action by what I find, after a full examination, to be my duty as a Representative of the American people.

In proposing to organize a Government for the Territory of Oregon and over future acquired Territories, subjects of dispute have arisen which will tend to disturb the happiness and peace of portions of this Confederacy. I refer to the power claimed to prevent, by legislation of Congress, citizens of the United States from removing into such Territories with their slave property and there holding and enjoying the same.

If a majority of Congress have a constitutional right to limit the use of these Territories so as to exclude the employment of slave labor, and this right should be exercised, some portions of the Confederacy will complain of being deprived of an equal participation in Territories acquired by the common treasure and blood of all.

Should the constitutional right be admitted, then it must be acquired and acquired and the exclusion of

Should the constitutional right be admitted, then it must be a matter of expediency to determine whether the exclusion of slavery from these Territories is of such paramount importance to their future welfare as to override all personal and partial

onsiderations.

I am satisfied that slavery is an evil to any country whereever it exists, and I am unwilling that it should be extended, where it can be reasonably avoided. I am therefore willing to limit its further extension, where it can be done constitutionally and with a proper regard to the rights of other portions of the

It is not so much the happiness of the slave as the future welfare of the Territories that governs my feelings in this matter. My own opinion is, that a large majority of our slave population are happier and better off as they are than immediate emancipation can make them. I know that our Southern brethren entertain a different opinion from myself as to the evils of slavery, and I respect their opinions as honestly entertained, and consider their opinions entitled to the same respect with my own or others upon the same subject. It being the first time that I have been called upon to act on a question of this character, and being fully aware of the a question of this character, and being the American people great variety of opinions entertained by the American people upon the constitutional right, as well as the policy of general legislation over our Territories, I have approached this question over our Territories, I have approached this question of the constitution of this character, and being the constitution of the constituti tion as though it was a new one, and examined it as if it were the first time presented for determination, with a sincere desire to arrive at a just conclusion, without reference to former legislation or sectional prejudice. After the best examination that I have been able to bestow, I have arrived at the conclusion that the const tution confers no right on Congress of ex-clusive legislation over persons and their property in the new Territories. That, so far as general legislation is concerned, the Territories stand in the same relation to the General Government as do the States. That the power to legislate for the government and general police of Territories, not being in Congress, necessarily remains with the people of the Territories, and to exercise this legislative power over such Territories the con-sent of the inhabitants thereof should in the first place be

The first question is, Has Congress the constitutional right to legislate for, and regulate the general police and government

of, Oregon or any newly-acquired territory?

If Congress has that right, under what clause of the constitution is it to be found? Our General Government is one of limited powers, and is confined in its action to the exercise of those expressly delegated powers, or to such as are necessary to carry such powers into execution.

The clause in the constitution on which the advocates of

clothe Congress with special powers in relation to the Territories' It is well knywn that several of the States claimed portions of the soil in the Western Territory. Virginia reserved the land between the Scioto and Little Miami rivers for her revolutionary soldiers, and Connecticut reserved a tract in the northeastern portion of Ohio. If these claims were not at this time settled, the States still held these claims, which were afterwards ratified. The claim of the States did not apply to the domain, but to the soil plane: so it is with the whole clause of the latter part of this section; the words "to dispose of," "to make all needful rules and regulations," and "to provide against the prejudicing the claim of the States, or the United States," all apply to lands, as a fair construction of the clause will warrant, and to Western lands, as the history of the proceedings of the Convention does most indubitably show.

We cannot adopt the converse of the above conclusion without assuming that Congress could sell and dispose of and transfer the jurisdiction of this Western territory to some foreign Power, and that the States had a conflicting claim of jurisdiction in the same territory and at the same time, and consequently must have had the same power to sell, which could not be, as I will hereafter show, from the fact that the Confederation had already provided-whis territory with laws for self-government, and consequently had no such territory to sell. It does seem to me that the question is a clear one, that there is no express delegated power in the constitution giving Congress the right of exclusive legislation over the Western territories.

Having disposed of the first question, the next is, Does the

time of the adoption of the constitution, was by the ordinance of 1787 provided with a government embracing all the essen-

of 1787 provided with a government embracing all the essential principles of liberty.

This ordinance for the government of the Territory northwest of the river Ohio was adopted by the Confederation, whose powers, I take it, were ample for any kind of legislation necessary over that Territory. And had the Confederation remained unchanged, the provisions of that ordinance would have remained, as it professed to be, unalterable.

But the adoption of our present constitution was a virtual revocation of the unalterable provisions of that ordinance; for by the adoption of the constitution those provisions became

by the adoption of the constitution those provisions became merged in that instrument, and what was intended as a spe cial provision for this Territory was by the constitution ex-tended to the whole Union. Such, for instance, was the benefit of the "habeas corpus act," he right of trial by jury, that good faith should be kept with the Indians, and also the that good faith should be kept with the Indians, and also the provision that no tax or impost should be levied upon property in its transit through this Territory. I refer to the latter part of the fourth article of this ordinance, which is as follows:

"The navigable waters leading into the Mississippi and St. Lawrence, and the carrying places between the same, shall be common highways and forever tree, as well to the inhabitants of the said Territory, as to the citizens of the United States, and those of any other State that may be admitted into the Confederacy, without tax, import, or thay therefor."

The object of this clause was not to make common highways for any other purpose but for the free transit of property through this territory. The adoption of the constitution provided a remedy for this evil, by prohibiting the several States from levying of imposts or duties on cappets or imports.

"The reason ceasing, the law ceased," consequently, those streams, and the carrying places between the same, ceased to be common highways.

streams, and the carrying places between the same, ceased to be common highways.

That prohibitory provision in the constitution becomes more important as the States of the Confederacy increase in number. I was sorry to see a bill introduced in the early part of the session, by the gentleman from South Carolina, which, if adopted, would virtually repeal that important part of the constitution which shields and protects the Western States from the extortion of the Atlantic States. I refer to the bill-author-

giving Congress the right of exclusive legislation over the Western territories.

Having disposed of the first question, the next is, Does the power of Congress to legislate for the disposition of the soil necessarily draw after it, as an incident, the power to legislate for presons who occupy this soil? It unquestionably does not, because all of our Western States have exercised jurisdiction over the country while the fee simple was in the United States, without any inconvenience resulting therefrom. Congress having the fee of the soil reserved, and consequently the primary disposition of the same, can adopt such regulations as may be deemed necessary without interfering with the rights of the inhabitants of such territory, and the inhabitants of such territory can make all laws necessary for the welfare of such society without interfering with the rights of the soil.

It is clear, also, on another ground, that the Convention did not intend to give general legislation over her Territories, from the fact that the United States at that time possessed no territory but the Northwest Territory, and that territory, at the time of the adoption of the constitution, was by the ordinance of 1787 provided with a government embreries all the constitution that we leave the whole subject and the principles of justice and the compromises of the constitution that we leave the whole subject and the principles of justice and the compromises of the constitution that we leave the whole subject and the principles of justice and the compromises of the constitution that we leave the whole subject and the principles of justice and the compromises of the constitution that we leave the whole subject and the principles of pushed and of pro-slavery men? Would it not be most inhabitants of Territories, where it should belong? The inhabitants of Territories where it should belong? The inhabitants of these Territories where it should belong? The inhabitants of the constitution that we leave the whole subject mater with the constitution that

Territories for this object.

I have stated before that I do not believe that Congress has any constitutional right to legislate, but that the inhabitants of

This motion was withdrawn, and the following proposition was offered:

It was offered:

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Mr. WHITE offered an amendment as an additional section to the bill.

Mr. VINTON rose to a point of order, and objected to the mendment as irrelevant to the bill.

The CHAIRMAN sustained the objection, and decided amendment not in order.

THE POST OFFICE BILL .- SLAVERY, &c., Some conversation ensued between Messrs. GOGGIN and VINTON; after which the bill was laid aside to be reported to the House; and the committee proceeded to consider the bill making appropriations for the service of the Post Office Department for the year ending June 30, 1849.

Mr. WOODWARD, referring by way of apology for the

remarks he was about to make to the indulgence allowed to Mr. BAYLY in the latitude of debate which he had taken yesterday, observed that the gentleman had taken issue upon the abstract proposition as to the power of Congress to legislate for the Territories. Besides not being before the House, there was no such direct issue before the country. He granted there were questions before the country which involved the discussion of that proposition; there was a case before the country in which law was to be applied, and that case was

stitutional establishment of slavery in the territories, which tribu no one contends, and there is no law for the purpose, how was

oes your court get jurisdiction of the case?

They were told that slavery existed by the laws of the Territories; and who was the judge of the laws of the Territories but the judiciary? He did not pretend that the constitution established it. The issue had been made whether slavery ex-

established it. The issue had been made whether slavery exists without the constitution and without the laws. If it did, it exists by local laws and by local principles, and must be determined by the local judiciary. Now he asked for a guaranty, and if those interested in this subject as he was would stand by him he would have a guaranty.

Mr. LAHM asked the gentleman from South Carolina if he should remove to a Territory with his slave, and the slave should there claim his freedom, and should be brought up on a habeas corpus to the Supreme Court, if the gentleman pleased, would not the Supreme Court decide whether by the constitution, without legislative action, the gentleman could hold stitution, without legislative action, the gentleman could a slave thus taken into a Territory or not?

Mr. WOODWARD said the gentleman might resert to precise technicalities on which he did not intend now to enter. But suppose a slave escaped into the District of Columbia, would not the remedy prescribed in the constitution apply which provided for the surender of fugitive slaves? The Mr. WOUD.

Secise technicalities on which

But suppose a slave escaped into the prescribed in the constitution which provided for the surrender of fugitive slaves? The constitution provided that the General Government should have exclusive jurisdiction over all places purchased from the States for public uses; and if a slave passed to those places could he not be delivered up? Would the gentleman content that the obligation which rested on the whole people of this Union did not rest on the Government itself? The gentleman from Virginia (Mr. Bayly) contended that this was a local legislature for the District of Columbia. Now, whatever it was, it was bound to perform all the duties towards other it was, it was bound to perform all the duties towards other it was, it was bound to perform all the duties towards other it was, it was bound to perform all the duties towards other it was, it was bound to perform all the duties towards other it was, it was bound to perform all the duties towards other it was, it was bound to perform all the duties towards other it was, it was bound to perform all the duties towards other it was, it was bound to perform all the duties towards other it was, it was bound to perform all the duties towards other it was, it was bound to perform all the duties towards other it was, it was bound to the function of the f would not now, but he intended at future time to argue that question. He repeated that a Territory was a dependency, and not a State of this Union. The gentleman from Virginia yestedday made it a State, but this he (Mr. W.) denied. And if it was partly in this Union and partly out, where would they draw the distinction? where was the line of partition? What laws could they make for a Territory against its will? But he repeated he did not choose to argue this question now.

Mr. BAYLY did not rise, after the great indulgence shown him yesterday, to engage in this debate again. He had not him yesterday, to engage in this debate again. He had not

argued the proposition at all which the gentleman from South Carolina has this day mooted. He expressly declined to argue Carolina has this day mooted. He expressly declined to argue it yesterday, on the ground that this House has no jurisdiction over it. The whole burden of his argument was to show that Congress had no jurisdiction to legislate on the subject of slavery in the Territories, and whether he established that proposition to the sati-faction of every body else he knew not, but he did it to his own. If, then, he succeeded in establishing the proposition that Congress had no authority to legislate on the subject of slavery in the Territories, it seemed to him that, as far as they were concerned, the argument ed to him that, as far as they were concerned, the argument was at an end. He referred certainly to the question which the gentleman from South Carolina had brought into the dis-cussion, that, by the act acquiring territory, slavery was esta-blished in such territory. He referred to that opinion simply; he did not argue it. He declined to do so because it was a question which Congress could not decide.

Mr. FICKLIN made some suggestion which was inaudible

t the Reporter's desk.

Mr. BAYLY sail that was a question which he declined to argue the other day, and he also refused to argue it now, because it was a question which Congress could not decide.

rest to them whether that population was to be prevented idea in opposition to communism; that is, the idea by which courts, and the courts would decide the question without from amplifying and spreading; it was a matter of interest one man becomes the exclusive owner of chattels or any thing reference to the opinions of politicians. They could not

The state of the s

Mr. BAYLY. Is not the constitution of the United States the supreme law of the land; and is not it part of the law which the judiciary must administer?

Mr. WOODWARD. Exactly so. But if there is no contribunal o decide it. The gentleman asked how the ques was to be got before the courts; and he (Mr. B.) would

him precisely how he might get it there.

Mr. WOODWARD explained. He was understood to say that he never would make a case for the courts under such circumstances.

Mr. BAYLY would nevertheless tell the gentleman how it Mr. JAYLY would nevertheless tell the gentleman how it would came before the courts, and if it came not there at all it would remain a most question to the end of time. A slave is found in California. A master carries him there. When he gets there it is found by some gentlemen who differs from the gentlemen from South Carolina, that, inasmuch as slavery did not exist there when the territory was acquired, until laws were passed to recognise it he was free. The slave then rewere passed to recognisa it he was free. The slave then re-fuses to work for his master: the master corrects him; he brings his action for assault and battery; the master pleads that it was mederate correction, which he had the right to in-flict on his servant: the plea is demurred to, and the court has flict on his servant; the plea is demurred to, and the court was to decide whether slavery exists there or not. That was precisely the manner in which the question could be brought before the courts. In giving the gent eman a case he could perhaps have selected another; for instance, one which had been stated by a gentleman from Ohio; but he selected this case stated by a gentleman from Ohio; but he selected this case

Mr. BAYLY replied that the gentleman from Pennsylvania was not so good at the laws as he was in fixing up teriff me tistics, and not very good at that, though the country perhaps ntertained a different opinion.

Mr. STEWART rose to a point of order.

The CHAIR. The gentleman from Pennsylvania will state his point of order.

Mr. STEWART would do so. The gentleman from Vir-

Mr. STEWART would do so. The gentleman from Virginia had pledged himself to the House in the course of his remarks a few days ago that, if he was wrong on the question stated, respecting the exports and imports at particular periods, he would never open his mouth on this floor again. Now he (Mr. S.) maintained that the gentleman from Virginia had no right to open his mouth on this floor. [Laughter.]

The CHAIR paused.

Mr. BAYLY desired that the point of order should be decided.

The CHAIR recognised no point of order in the statemen

made. [Laughter.]
Mr. BAYLY said that, though foreign to this discussion, he would state to the gentleman from Pennsylvania, for his edifi-cation, that, before he took the floor, he was writing a card for the National Intelligencer, to show how that gentleman had quibbled in his card which appeared in the National Intelligencer this morning, to enable him to get out of the difficulty in which he had involved himself; and if he (Mr. B.) did not

and the secondary and the same right to the extraction of patients and the same right to the extraction of patients power that the State have, that they are also as the same of the state of the same right to the extraction of the proposition which has been departed as an extraction of the same right to the extraction